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10/660,810

09/11/2003

Peter Gerrard

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06/10/2009

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EXAMINER

RENDON, CHRISTIAN E

ART UNIT

PAPER NUMBER

3714

NOTIFICATION DATE

DELIVERY MODE

06/10/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

| | | | |
|------------------------------|--|---------------------------------------|--|
| Office Action Summary | Application No. 10/660,810 | Applicant(s) GERRARD ET AL. | |
| | Examiner CHRISTIAN E. RENDÓN | Art Unit 3714 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

This office action is in response to the amendment filed 2/26/09 in which applicant has amended the following claims 1, 8, 14-17, 22, 29-30, 34, 40-43, 48, 55-56; responded to the claim rejections.

Claims 1-56 are still pending.

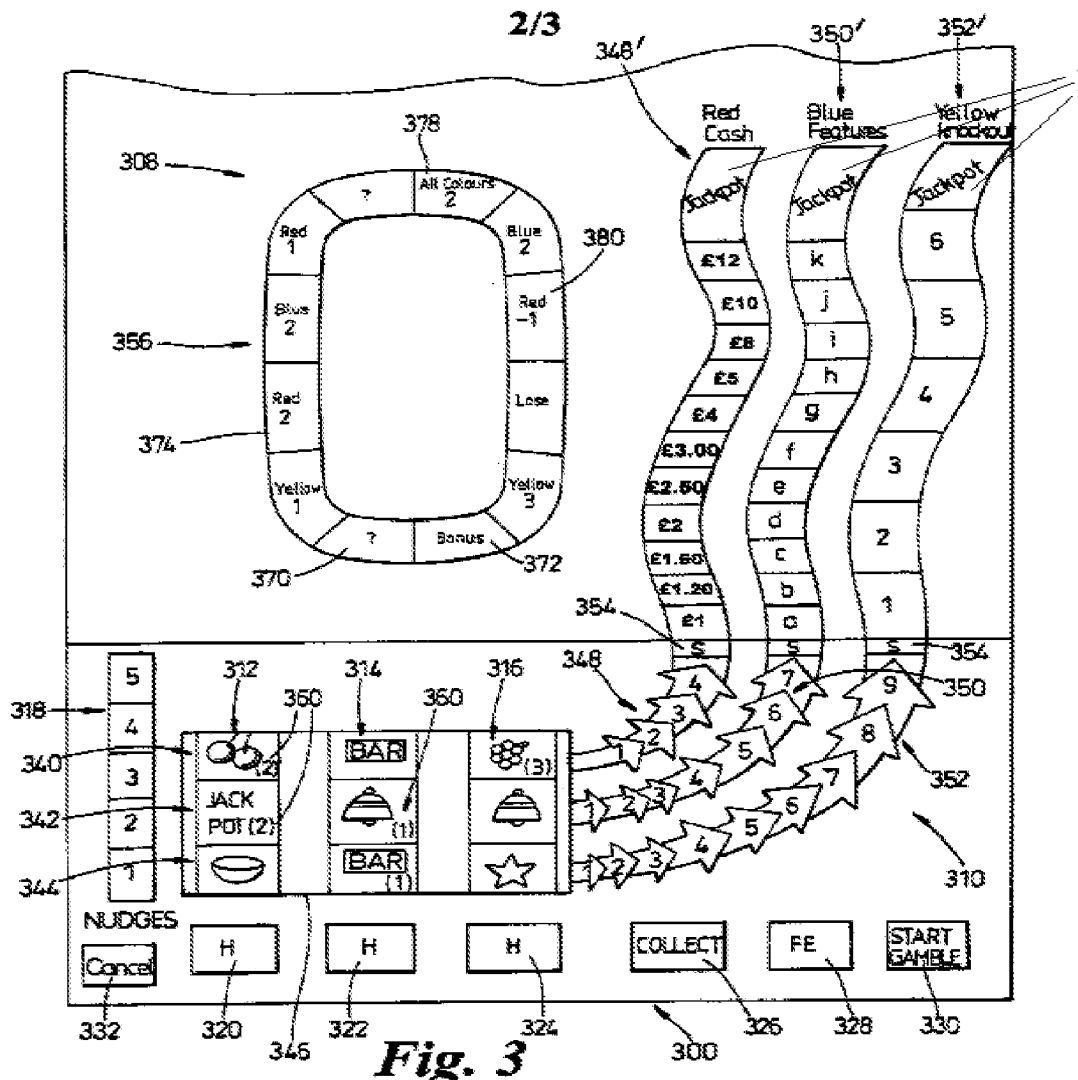
Claim Rejections - 35 USC § 103

Claims 1-7, 9-14, 1621, 2328, 3033, 35-40, 42-47 and 49-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Claypole (GB 2353128A) in view of Lemay et al. (US 2002/0010018 A1) and Vancura (US 6,843,721 B2).

1. Claypole designed a game "to increase the player's perception that their tactics and skill will result in a greater chance of winning" (Claypole: pg. 1, par 3, line 4) by adding several elements that encourage strategic planning. One of these elements is a display containing three trails of different colors (Red, Blue, and Yellow) each a different length (Claypole: pg. 9: par 2, lines 2-5) that are also divided into a different number of segments. Movement through the trail occurs when a user lines up the same symbol along any of the visible horizontal or contribution lines (Claypole: fig. 3, 348, 350, 352), then those symbols may contribute to their respective trails (Claypole: pg. 2-3, par 6, line 1). Only the reel symbols that have a 'number' or points associated with them (Claypole: pg. 3, par 3, line 1) can grant the player a 'number' of spaces (points) on the trail (Claypole: pg. 3, par 4, line 1). The reference teaches offering the player '1', '2' or '3' points (Claypole: fig. 3, 360) however the Examiner views the reference as teaching offering any possible number. Each trail has a different award on certain positions (Claypole: pg. 9: par 2, line 4) and those awards including the one at the end of the trail (Claypole: Figure 3, item 1) are offered once the player has accumulated the necessary number

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of points to land on said award (Claypole: pg. 4, par. 3, lines 10-11).



2. Regarding claims 1 and 30, the prior art discloses a gaming device containing a coin **input device** (Claypole: pg. 6, par. 1, line 2). Certain positions on the trails contain an award hence each trail has a different number of awards (Claypole: pg. 9: par 2, line 4); thus the trails are viewed as teaching **award groups**. Each segment on the trail is viewed as an **indicator** representing the player's current position on each trail through the illumination of the appropriate square (Claypole: pg. 11, par 3, lines 1-4). Therefore the art is viewed as having a **(a) game processor that has a plurality of instructions in memory which operates a plurality of displayed award groups, each**

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containing a plurality of indicators and awards to represent the player's position on a **plurality of award groups** called trails depicted on a **display device** (Claypole: pg. 6, par 5, line 1). The generated reels symbols have a 'number' associated with them (Claypole: pg. 3, par 3) that grant the player a 'number' of spaces on the trail (Claypole: pg. 3, par 4, line 1); thus teaching **(b)(c) an indicator generator to generate, associate and accumulate a number of indicators with each of the award groups**. The player is allowed to progress further along a trail until a winning end occurs or he/she decides to press the "collect" button which offers the player their payout. The final cash amount is determined by the current reached level on the blue trail (Claypole: pg. 7, par. 2, lines 18-21) and the current position on the red trail which is further influenced by the current position on the yellow trail (Claypole: pg. 7, lines 1-6). Thus the art teaches **repeating (b) to (c) until all of the indicators have been accumulated in at least one award group**. Which the game then **(i) awards** the last prize of a trail when **(e) all of the indicators have been accumulated in the award group** (Claypole: pg. 4, par. 3, lines 10-11). In addition, the Examiner views a winning end (Claypole: pg. 7, line 5) as the player achieving all of the jackpots. Since a player is able to continue with the game play on the other trails after achieving a top prize (Claypole: pg. 7, lines 18-21). Thus **(B) providing the player with at least one opportunity to win at least one additional award for accumulating all of the indicators**. However the prior art remains silent towards the occurrence of the game in a single play.

3. Lemay discloses a slot game containing trail based bonus game (Lemay: fig. 3). The player is allowed to play the bonus game until the last symbol on the trail or a termination symbol is obtained under a single wager (Lemay: par. 33, lines 44-47). In addition, the art teaches resetting the bonus system to the initial stage in the bonus arrangement (Lemay: par. 8, lines 7-8) when a termination symbol or the completion of the path occurs (Lemay: par. 29, lines 31-36). Thus the art teaches allowing a person to play a bonus trail **game for a single wager that (A) resets the indicators in**

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the award group associated with the provided end award. One of ordinary skill would combine Claypole and Lemay together to encourage more strategic play from a player. In other words, a player who pays once to play a possibly long game is more likely to plan out their movements along the three trails to maximize their winnings (Claypole: pg. 9, lines 19-29) since there is no wagering cost for each move on the trail (Claypole: pg. 9, lines 10-16). However the prior art combination remains silent towards randomly ending a single play of the game after the awarding of a final prize.

4. Vancura discloses a method for playing a casino **game that ends randomly** after every player choice of an object (Vancura: abstract). In other words, the random nature of the ending scheme disclosed by Vancura allows for the possibility of **(ii) ending a game after a player chooses their award** by picking a trail position with said award. Therefore it would have been obvious to an ordinary artisan to include Vancura in the art combination as a feature that will increase the level of suspense. Hence the player will never know how long the game on a single wager will continue to last (Vancura: col. 2, lines 12-16); therefore a 'suspense' feature would further increase the strategic difficulty of the game (Claypole: pg. 9, lines 19-28) & influence the player's perception (Claypole: pg. 1, lines 15-16).

5. Regarding claims 2-4, 18 and 44, Claypole discloses a basic slot machine with multiple reels (pg. 2, par 2, line 1) **mechanical wheels** (pg. 6, par 4, line 1) or video reels (pg. 2, par 3, line 1). The reels are viewed as an **indicator generator** as mention previously and are **adjacent to multiple colored** "trails along which a user can move dependant upon the points awarded to the user" (pg. 2, par 1, line 3).

6. Regarding claims 5-7, 9-10, 19-21 and 23-24, Vancura discloses the probability of a game randomly ending increases after a player chooses an object (Vancura: claim 10) as a game progresses (Vancura: claim 6). In one embodiment, the probability of game ending starts at 14%, after the first choice becomes 15% and 16% after the second choice; increasing 1% for each progressive choice that is made by the player. Thus **the probability of ending the game is**

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associated with the game and pre-determined. The objects that a player can choose are associated with awards (Vancura: col. 2, lines 8-10). The accumulation of all of the indicators results in rewarding of the ultimate prize are randomly determined therefore each time a regular or ultimate prize is won in the art combination the **probability of the game ending randomly** will change.

7. Regarding claims 11-13, 25-27, 37-39, 45, 51-53, Claypole discloses the use of different colored trails to represent multiple award groups. A player's position on each of the trails is represented through the illumination of the proper squares (Claypole: pg. 11, lines 15-19). Therefore the art teaches the **use of an illumination device connected to each of the indicators**. Even though the art remains silent towards specifically stating the color paths contain **different colored lights**, this alteration is considered within the skill set of an ordinary artisan since the combination of known elements yield predictable results.

8. Regarding claims 14, 28, 31-32, 40, 46, 54, the art combination teaches randomly determining a bonus prize (Lemay: par. 22, lines 3-4) which are associated with the slot reels (Lemay: par. 21, lines 10-23). Therefore the art combination teaches **the number of indicators is randomly generated by the indicator generator and randomly determining when to provide an award**.

9. Regarding claims 16, 42 and 56, the art combination teaches resets the award groups when one of two events occurs. The arrival to the end of the award path or a player receiving a termination symbol results in the marker retreating to the beginning of said path (Lemay: par. 29, lines 31-36). Thus teaching **the reset of at least one of the indicators in at least one award group associated with an indicated award when it is determined that the indicated award is provided or not to be provided to the player**.

10. Regarding claims 17 and 43, the limitations are similar to ones found in claim 1 thus are rejected under the same rational. The prior art teaches a slot reels (Claypole: fig. 3) which are

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considered by the Examiner as a **rotatable display that rotates** and when it **stops a value is aligned with an award group**.

11. Regarding claim 44, the art teaches **positioning different color sections adjacent to the rotatable display** (Claypole: fig. 3).

Claims 8, 15, 22, 29, 34-36, 41, 47-50 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Claypole, Lemay, Vancura and in view of Lombardo (US 2004/0185932 A1).

12. The above description of the art combination and the limitations they pertain is considered within this art rejection as well. The art combination fails to disclose **basing any outcome on the wager made by the player**.

13. Regarding claims 8 and 22, Lombardo teaches basing the probability of a winning outcome occurring on a wager amount (Lombardo: par. 11, lines 8-12). One of ordinary skill would include Lombardo in the art combination as a means to attract larger number of bettors, maximize wager amounts per round of play and increase gaming revenue (Lombardo: par. 9). In other words, the art combination would reward players with prizes for wagering high in a single wager game and alter the **probability of ending the game** sooner for low wagering players.

14. Regarding claims 15, 29, 34-36 and 47-50, Lombardo discloses **two different probabilities** (Lombardo: par. 11, lines 8-12) **associated with the awards** (Lombardo: par. 15, lines 1-4) based on the level of the wager. Furthermore, the wager amounts and the probabilities are **pre-determined**.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Previous Response

The Examiner would like to further point out that the philosophy of randomly determining when to end a game after a single play is well known in the art of games. Video games with mini-games usually

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operate under a "do or die" mentality, for example 'Lightning Dodging' mini-game in Final Fantasy X. The goal of the player is to dodge 200 lightning bolts however a single strike will cause the player to lose their entire collected tally (<http://www.gamefaqs.com/features/top10/1041.html>). Despite the strict rule, players are enticed to complete the mini-game by the grand prize, Venus Sigil.

Examiner's Note

Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims is patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTIAN E. RENDÓN whose telephone number is (571)272-3117. The examiner can normally be reached on 9 - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Supervisory Patent Examiner, Art Unit 3714

/CHRISTIAN E RENDÓN/
Examiner Art Unit 3714
CER